

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

In Re:

HENRY ZEGZULA,

Debtor,

CASE NO. 18-cv-5517RBL

BANKRUPTCY CAUSE NO.
18-40874BDL

BANKRUPTCY INTERNAL APPEAL
NO. 18-T005

THIS MATTER is before the Court on Debtor Henry Zegula's Appeal of Bankruptcy Judge Lynch's Order dismissing his Chapter 7 Bankruptcy filing. Judge Lynch found that Zegula "is intentionally abusing and unfairly manipulating the bankruptcy system and acting in bad faith in order to fend off foreclosure":

1 As addressed on the record at the hearing on the Order to Show Cause, this is Mr.
2 Zegzula's ninth bankruptcy since May 2008. Mr. Zegzula's bankruptcy history was described
3 in the Order to Show Cause and read on the record by the Court at the May 16, 2018 hearing.
4 Mr. Zegzula has shown a pattern of not properly prosecuting or timely prosecuting his cases,
5 not fulfilling his obligations as debtors under the Bankruptcy Code, and of repeat filings every
6 time a bar to re-filing bankruptcy has expired. As the Court concluded on the record on May
7 16, 2018, Mr. Zegzula is intentionally abusing and unfairly manipulating the bankruptcy
8 system and acting in bad faith in order to fend off foreclosure.

9 [Dkt. # 1 at 11; *see also* Dkt. # 1 at 4].

10 Because of the abusive, repetitive filings, Judge Lynch barred Zegzula from filing any
11 additional bankruptcy cases in this District for five years:

12 Based on the Court's findings and conclusions stated on the record on May 16, 2018,
13 which are incorporated herein by reference, it is HEREBY ORDERED that:

14 The above-captioned case is dismissed with prejudice to Henry David Zegzula filing or
15 refiling a petition under any chapter of the Bankruptcy Code in any court through May 16,
16 2023. If Mr. Zegzula purports to file another bankruptcy case in any court in the meantime, it
17 will be a nullity and of no effect, and specifically no automatic stay under 11 U.S.C. §362 shall
18 go into effect.

19 [Dkt. # 1 at 12].

20 Zegzula appealed Judge Lynch's dismissal to this Court [Dkt. # 64 in the Bankruptcy
21 Case]. He sought to temporarily restrain a pending foreclosure [Dkt. # 11 in this case], which this
22 Court denied [Dkt. # 13] because the arguments he made did not relate to the appeal before this
23 Court.

24 Zegzula's Opening Appellate Brief [Dkt. # 10] repeats these arguments: he claims some
of his creditors (and would-be adversaries, though there is no pending litigation or adversary

proceeding against them) made a host of errors in the way they documented his mortgage and commenced foreclosure proceedings after he defaulted on his loan.

Judge Lynch did not resolve these issues because Zegzula was not entitled to file for bankruptcy protection in the first place, based on his prior, serial bankruptcy filings. The only issue before this Court is whether the Bankruptcy Judge's Order of Dismissal was an abuse of discretion. This Court reviews the bankruptcy court's findings of facts under the clearly erroneous standard, and its conclusions of law de novo. *In re Candland*, 90 F.3d 1466, 1469 (9th Cir. 1996). Dismissals are reviewed for abuse of discretion. *See In re Marsh*, 36 F.3d 825, 828 (1994).

The record in this case demonstrates that Judge Lynch's dismissal was correct, measured against either of these standards. Zegzula has filed nine bankruptcy cases in the past ten years. The eight before this one are listed in the Bankruptcy Court's docket [Dkt. # 1 at 4]:

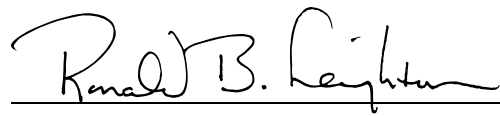
03/16/2018		** Repeat Filer ** for debtor Henry Daniel Zegzula Case Number <u>08-46380</u> , Chapter 13 filed in Washington Western Bankruptcy Court on 12/04/2008 , Dismissed for Other Reason on 03/05/2009; Case Number <u>08-42221</u> , Chapter 13 filed in Washington Western Bankruptcy Court on 05/15/2008 , Dismissed for failure to pay filing fee on 08/15/2008; Case Number <u>16-40975</u> , Chapter 7 filed in Washington Western Bankruptcy Court on 03/10/2016 , Standard Discharge on 11/09/2016; Case Number <u>13-46556</u> , Chapter 13 filed in Washington Western Bankruptcy Court on 10/18/2013 , Dismissed for Failure to File Information on 11/13/2013; Case Number <u>13-47541</u> , Chapter 7 filed in Washington Western Bankruptcy Court on 12/11/2013 , Dismissed for Abuse on 01/30/2014; Case Number <u>09-43608</u> , Chapter 13 filed in Washington Western Bankruptcy Court on 05/21/2009 , Dismissed for Other Reason on 06/26/2009; Case Number <u>09-47927</u> , Chapter 11 filed in Washington Western Bankruptcy Court on 10/22/2009 , Dismissed for Other Reason on 04/23/2010; Case Number <u>12-46222</u> , Chapter 11 filed in Washington Western Bankruptcy Court on 09/05/2012 , Dismissed for Abuse on 01/17/2013.(Admin) (Entered: 03/16/2018 at 04:00:30)
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Zegzula's Brief does not address the Bankruptcy Court's ruling, or the bases for it, at all. It instead attacks his creditors' actions, which are not at issue in this appeal.

1 The Bankruptcy Court's Dismissal of Zegzula's Chapter 7 bankruptcy filing as abusive is
2 **AFFIRMED.**

3 IT IS SO ORDERED.

4 Dated this 27th day of November, 2018.

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7 Ronald B. Leighton
8 United States District Judge
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